

Senate File 431 - Introduced

SENATE FILE 431

BY ZAUN

A BILL FOR

1 An Act establishing an education savings grant program for
2 certain pupils attending a nonpublic school or receiving
3 competent private instruction, establishing an education
4 savings grant fund, providing an income tax exemption,
5 making appropriations, providing penalties, and including
6 applicability provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 256.9, Code 2021, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 63. Adopt rules relating to the
4 administration of and applications for the education savings
5 grant program pursuant to section 257.11B, including but not
6 limited to application processing timelines, information
7 required to be submitted by a parent or guardian, and payment
8 and recovery of education savings grant amounts. As part of
9 administration of the education savings grant program, the
10 department shall maintain updated lists of education service
11 providers that provide services that are qualified educational
12 expenses under section 257.11B, subsection 6, and provide
13 parents and guardians with written explanations of allowable
14 uses of education savings grant funds. Any rules adopted by
15 the department should avoid excessive bureaucracy and overly
16 prescriptive mandates and instead focus on easing parental
17 involvement and encouraging educational service providers to
18 provide parents and pupils with a broad array of educational
19 options.

20 Sec. 2. NEW SECTION. 257.11B Education savings grant
21 program.

22 1. a. For the school budget year beginning July 1, 2022,
23 and each succeeding school budget year, resident pupils
24 eligible to enroll in kindergarten through grade twelve and who
25 are either attending a nonpublic school, as defined in section
26 285.16, or are receiving competent private instruction under
27 chapter 299A, and who are not otherwise ineligible under this
28 section, shall be eligible to receive an education savings
29 grant in the manner provided in this section.

30 b. Education savings grants shall be made available to
31 parents and guardians in the manner authorized under subsection
32 4, paragraph "c", for the payment of qualified educational
33 expenses as provided in this section.

34 c. For purposes of this section, "resident" means the same
35 as defined in section 282.1, subsection 2.

1 2. *a.* (1) By January 31 preceding the school year for
2 which the education savings grant is requested, the parent
3 or guardian of the pupil requesting to receive an education
4 savings grant shall submit an application to the department of
5 education, on application forms developed by the department
6 of education, indicating that the parent or guardian intends
7 to enroll the pupil in a nonpublic school or place the pupil
8 under competent private instruction under chapter 299A for the
9 entirety of the school year.

10 (2) In addition to such information deemed appropriate by
11 the department of education, the application shall require
12 certification from the nonpublic school of the pupil's
13 enrollment or a statement from the intended provider of
14 competent private instruction for the pupil for the following
15 school year.

16 (3) The department shall ensure accessibility to
17 application materials, including by providing for an electronic
18 method of applying for the education savings grant.

19 (4) The department of education shall approve each
20 application received under this section that satisfies the
21 requirements to receive an education savings grant for the
22 school year.

23 (5) The department of education shall notify the parent or
24 guardian of a pupil with a disability that participation in the
25 education savings grant program is a parental placement under
26 20 U.S.C. §1412, and provide an explanation of the rights that
27 parentally placed students possess under federal law and any
28 applicable state laws and regulations.

29 *b.* By March 1 preceding the school year for which the
30 education savings grant is requested, the department of
31 education shall determine the number of pupils in each school
32 district approved to receive a grant for the following school
33 year and shall notify the parent or guardian of each pupil
34 approved for the following school year to receive an education
35 savings grant and the amount of the education savings grant for

1 the pupil.

2 *c.* Education savings grants shall only be approved for one
3 school year and applications must be submitted annually for
4 education savings grants in subsequent school years.

5 3. The department of education shall assign each pupil an
6 education savings grant in an amount equal to the sum of all of
7 the following for the same school budget year:

8 *a.* The product of the pupil's weighted enrollment that
9 would otherwise be assigned to the pupil under this chapter if
10 the pupil was enrolled in the pupil's district of residence
11 multiplied by the regular program state cost per pupil.

12 *b.* The total teacher salary supplement district cost per
13 pupil for the pupil's district of residence.

14 *c.* The total professional development supplement district
15 cost per pupil for the pupil's district of residence.

16 *d.* The total early intervention supplement district cost per
17 pupil for the pupil's district of residence.

18 *e.* The total area education agency teacher salary supplement
19 district cost per pupil for the pupil's district of residence.

20 *f.* The total area education agency professional development
21 supplement district cost per pupil for the pupil's district of
22 residence.

23 *g.* The total teacher leadership supplement district cost per
24 pupil for the pupil's district of residence.

25 *h.* The total area education agency media services state cost
26 per pupil.

27 *i.* The total area education agency educational services
28 state cost per pupil.

29 *j.* The total special education support services district
30 cost per pupil for the pupil's district of residence.

31 4. An education savings grant fund is created in the state
32 treasury under the control of the department of education
33 consisting of moneys appropriated to the department of
34 education for the purpose of providing education savings grants
35 under this section. For the fiscal year commencing July 1,

1 2022, and each succeeding fiscal year, there is appropriated
2 from the general fund of the state to the department of
3 education to be credited to the fund the amount necessary to
4 pay all education savings grants approved for that fiscal year,
5 including amounts necessary to administer the program. The
6 department of education may withhold from amounts deposited
7 in the education savings grant fund up to a maximum of five
8 percent of the funds for the first two years of the program and
9 up to three percent of the funds for each year thereafter to
10 cover the costs of administering the program. The director of
11 the department of education has all powers necessary to carry
12 out and effectuate the purposes, objectives, and provisions of
13 this section pertaining to the fund, including the power to do
14 all of the following:

- 15 *a.* Make and enter into contracts necessary for the
16 administration of the fund.
- 17 *b.* Procure insurance against any loss in connection with the
18 assets of the fund or require a surety bond.
- 19 *c.* Contract with a private financial management firm to
20 manage the fund, in collaboration with the treasurer of state,
21 including providing for the disbursement of education savings
22 grants in the form of an electronic debit card or checks that
23 are payable directly from the pupil's account within the fund.
24 The payment system implemented by the department shall be
25 commercially viable, cost-effective, not reliant on requiring
26 a parent or guardian to be reimbursed for out-of-pocket
27 expenses, and provide for a method of preapproval for qualified
28 educational expenses.
- 29 *d.* Conduct audits or other reviews necessary to properly
30 administer the program. The department of education shall
31 minimally conduct random audits of education savings grants on
32 an annual basis.
- 33 *e.* Establish or contract for the establishment of an online
34 and telephone fraud reporting service.
- 35 *f.* Adopt rules for the administration of the fund and

1 accounts within the fund.

2 5. *a.* For each pupil approved for an education savings
3 grant, the department of education shall establish an account
4 for that pupil in the education savings grant fund. The amount
5 of the pupil's education savings grant shall be deposited
6 into the pupil's account on July 1, and such amount shall be
7 immediately available for the payment of qualified educational
8 expenses incurred by the parent or guardian for the pupil
9 during that fiscal year using the payment method authorized
10 under subsection 4, paragraph "c".

11 *b.* A nonpublic school or provider of competent private
12 instruction that accepts payment from a parent or guardian
13 using funds from a pupil's account in the education savings
14 grant fund shall not refund, rebate, or share any portion of
15 such payment with the parent, guardian, or pupil.

16 *c.* Moneys remaining in a pupil's account upon conclusion
17 of the fiscal year shall remain in the pupil's account in the
18 education savings grant fund for the payment of qualified
19 educational expenses in future fiscal years during which the
20 pupil participates in the program or for the payment of higher
21 education costs as provided under subsection 8.

22 *d.* A parent or guardian is authorized to make payments for
23 the costs of educational expenses not covered by the funds
24 in the pupil's account, but shall not be permitted to make
25 deposits into a pupil's account in the education savings grant
26 fund.

27 6. *a.* The parent or guardian of each pupil participating in
28 the program shall agree in writing to use the funds deposited
29 in the pupil's account in the education savings grant fund for
30 only qualified educational expenses. The written agreement
31 between the parent or guardian and the department of education
32 shall include provisions promising that the parent or guardian
33 will provide an education for the pupil in at least the
34 subjects of reading, language, mathematics, science, and social
35 studies during the school year; will not enroll the pupil

1 as a full-time student in a public school during the school
2 year; and will comply with the rules and requirements of the
3 education savings grant program.

4 **b.** For purposes of this section, "*qualified educational*
5 *expenses*" includes tuition and fees at a nonpublic school;
6 textbooks; school uniforms; fees or payments for educational
7 therapies including tutoring or cognitive skills training;
8 curriculum fees and materials for a course of study for
9 a specific subject matter or grade level; tuition or fees
10 for nonpublic online education programs; tuition and fees
11 for summer education programs and specialized after-school
12 education programs, but excluding after-school child care;
13 tuition for vocational and life skills education, including
14 occupational, behavioral, physical, speech-language, and
15 audiology therapies; educational services, classes, and
16 extracurricular activities contracted for and provided by
17 a public school or a charter school; education materials
18 and services for pupils with disabilities, including the
19 cost of paraprofessionals and assistants who are trained in
20 accordance with state law; computer hardware or technology
21 devices that are primarily used for educational needs of the
22 pupil; educational software and applications; standardized test
23 fees; advanced placement examinations or examinations related
24 to postsecondary education admission or credentialing; fees
25 for transportation paid to a fee-for-service transportation
26 provider for the pupil to travel to and from an education
27 service provider; qualified education expenses, as defined in
28 section 12D.1, excluding room and board expenses; and other
29 expenses incurred by the parent or guardian that are directly
30 related to the education of the pupil under competent private
31 instruction or at a nonpublic school, including a nonpublic
32 school accredited by an independent accrediting agency approved
33 by the department of education.

34 **c.** (1) The department of education shall establish a
35 parent review committee to assist the department in examining

1 whether certain types of educational services and goods meet
2 the definition of qualified educational expenses and to provide
3 recommendations to the department about how to implement,
4 administer, and improve the education savings grant program.

5 (2) The parent review committee shall consist of seven
6 members appointed by the director of the department of
7 education.

8 (3) Each member shall be a parent or guardian of a pupil
9 participating in the program.

10 (4) The seven members of the committee shall represent no
11 fewer than four counties in the state.

12 (5) The seven members serve at the pleasure of the director
13 of the department of education for terms of one calendar year
14 and may be reappointed.

15 (6) The director of the department of education, or the
16 director's designee, shall serve as the nonvoting chairperson
17 of the committee.

18 7. a. A person who makes a false claim for the purpose
19 of obtaining an education savings grant provided for in this
20 section or who knowingly receives the grant or makes a payment
21 from an account within the education savings grant fund without
22 being legally entitled to do so is guilty of a fraudulent
23 practice under chapter 714. The false claim for an education
24 savings grant or a payment from an account shall be disallowed.
25 The department of education shall also close the pupil's
26 account in the education savings grant fund and transfer any
27 remaining moneys in the account for deposit in the general fund
28 of the state. If the improperly obtained amounts from the
29 grant have been disbursed from the applicable account in the
30 education savings grant fund, the department of education shall
31 recover such amounts from the parent or guardian, or from the
32 pupil for purposes of subsection 8, including by initiating
33 legal proceedings to recover such amounts, if necessary. A
34 parent or guardian, or a pupil for purposes of subsection
35 8, who commits a fraudulent practice under this section is

1 prohibited from participating in the education savings grant
2 program in the future. The department of education may refer
3 cases of substantial fraudulent practice or other abuse of
4 the program to the attorney general. The department may
5 also prohibit the goods or services of an education provider
6 or vendor from being a qualified educational expense upon
7 a finding that the provider or vendor intentionally or
8 substantially misrepresented the goods or services or routinely
9 failed to provide pupils with promised educational goods or
10 services.

11 *b.* (1) For pupils enrolled in a nonpublic school, if, prior
12 to the end of the required attendance period of the school
13 year, a pupil who receives an education savings grant withdraws
14 from enrollment in the nonpublic school or is expelled, the
15 nonpublic school shall notify the department of education in
16 writing of the pupil's withdrawal or expulsion, and the pupil's
17 parent or guardian shall notify the department of education of
18 the pupil's withdrawal or expulsion from the nonpublic school.
19 A pupil's expulsion from the nonpublic school prior to the end
20 of the required attendance period for the school year shall
21 invalidate the pupil's eligibility for the education savings
22 grant for the school budget year. A pupil's withdrawal from a
23 nonpublic school prior to the end of the required attendance
24 period of the school year shall invalidate the pupil's
25 eligibility for the education savings grant for the school
26 budget year unless the withdrawal is the result of a change
27 in residence of the pupil and the pupil, following written
28 notice by the parent or guardian and certification by the new
29 nonpublic school to the department of education, enrolls in a
30 different nonpublic school in this state for the remainder of
31 the school year.

32 (2) Upon receipt of a notice of expulsion under subparagraph
33 (1), the department of education shall close the pupil's
34 account in the education savings grant fund and transfer any
35 remaining moneys in the account for deposit in the general

1 fund of the state. In addition, if amounts from the grant
2 for the school budget year during which the pupil is expelled
3 have been disbursed from the expelled pupil's account in the
4 education savings grant fund, the department of education shall
5 recover such amounts from the parent or guardian, including
6 by initiating legal proceedings to recover such amounts, if
7 necessary.

8 (3) Upon receipt of a notice of withdrawal under
9 subparagraph (1) and a determination that the pupil's
10 withdrawal was not the result of a change in residence, the
11 department of education shall cease disbursements of remaining
12 moneys in the pupil's account in the education savings grant
13 fund and maintain the pupil's account if and until such time
14 that the pupil uses the funds for qualified education expenses
15 under subsection 8. In addition, if amounts from the grant
16 for the school budget year during which the withdrawal occurs
17 have been disbursed from the pupil's account in the education
18 savings grant fund, the department of education shall recover
19 such amounts from the parent or guardian to the extent the
20 amount disbursed exceeds the amount of the grant proportionate
21 to the remaining portion of the school year following the
22 withdrawal, including by initiating legal proceedings to
23 recover such amounts, if necessary.

24 (4) Upon receipt of a notice of withdrawal under
25 subparagraph (1) and a determination that the withdrawal was
26 the result of a change in residence but that the pupil did not
27 enroll in a different nonpublic school in this state for the
28 remainder of the school year, the department of education shall
29 cease disbursements of remaining moneys in the pupil's account
30 in the education savings grant fund and maintain the pupil's
31 account if and until such time that the pupil uses the funds
32 for qualified education expenses under subsection 8.

33 (5) If a pupil's eligibility is invalidated under the
34 provisions of subparagraph (1), the pupil shall be ineligible
35 for an education savings grant for the following school budget

1 year.

2 *c.* (1) For pupils receiving competent private instruction,
3 if, prior to the end of the school year, a pupil who receives
4 an education savings grant withdraws from receiving competent
5 private instruction, the pupil's parent or guardian shall
6 notify the department of education of the pupil's withdrawal.
7 A pupil's withdrawal from competent private instruction prior
8 to the end of the school year shall invalidate the pupil's
9 eligibility for the education savings grant for the school
10 budget year unless the pupil enrolls in a nonpublic school in
11 this state for the remainder of the school year.

12 (2) Upon receipt of a notice of withdrawal under
13 subparagraph (1) and a determination that the pupil's
14 withdrawal was not followed by enrollment in a nonpublic
15 school, the department of education shall cease disbursements
16 of remaining moneys in the pupil's account in the education
17 savings grant fund and maintain the pupil's account if and
18 until such time that the pupil uses the funds for qualified
19 education expenses under subsection 8. In addition, if
20 amounts from the grant for the school budget year during which
21 the withdrawal occurs have been disbursed from the pupil's
22 account in the education savings grant fund, the department
23 of education shall recover such amounts from the parent or
24 guardian to the extent the amount disbursed exceeds the amount
25 of the grant proportionate to the remaining portion of the
26 school year following the withdrawal, including by initiating
27 legal proceedings to recover such amounts, if necessary.

28 8. For each pupil with a positive balance in the pupil's
29 account in the education savings grant fund upon graduation
30 from high school or completion of an equivalent level of
31 competent private instruction under chapter 299A, the
32 department of education shall maintain the account in the
33 fund until the pupil is twenty-six years of age. Following
34 graduation from high school or completion of an equivalent
35 level of competent private instruction until the pupil is

1 twenty-six years of age, moneys in the pupil's account may be
2 used for qualified education expenses, as defined in section
3 12D.1, incurred by the pupil while attending an institution of
4 higher education. Payments from a pupil's account for higher
5 education costs shall be made in the same manner as payments
6 for qualified educational expenses under subsection 5. Moneys
7 in a pupil's account when the pupil turns twenty-six years of
8 age shall be transferred by the department of education for
9 deposit in the general fund of the state.

10 9. a. A parent may appeal to the state board of education
11 any administrative decision the department of education
12 makes pursuant to this section, including but not limited
13 to determinations of eligibility, allowable expenses, and
14 removal from the program. The department shall notify the
15 parent or guardian in writing of the appeal process at the same
16 time the department notifies the parent or guardian of the
17 administrative decision. The state board of education shall
18 establish the appeals process consistent with chapter 17A and
19 shall post such appeal process information on the state board
20 of education's internet site.

21 b. The state board of education may refer cases of
22 substantial misuse of education savings grant funds to the
23 attorney general for the purpose of collection or for the
24 purpose of a criminal investigation if the state board of
25 education obtains evidence of fraudulent use of an account.

26 10. a. This section shall not be construed to require that
27 a pupil participating in the program be enrolled in either a
28 private school or nonpublic online school.

29 b. This section shall not be construed to authorize the
30 state or any political subdivision of the state to exercise
31 authority over any nonpublic school or provider of competent
32 private instruction or construed to require a nonpublic school
33 to modify its academic standards for admission or educational
34 program in order to receive payment from a parent or guardian
35 using funds from a pupil's account in the education savings

1 grant fund. A nonpublic school or provider of competent
2 private instruction that accepts payment from a parent or
3 guardian using funds from a pupil's account in the education
4 savings grant fund is not an agent of this state or of a
5 political subdivision of this state. Rules adopted by the
6 department of education to implement this section that impose
7 an undue burden on a nonpublic school or provider of competent
8 private instruction are invalid.

9 Sec. 3. Section 422.7, Code 2021, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 51. Subtract, to the extent included, the
12 amount of an education savings grant under section 257.11B
13 received by the taxpayer for payment of qualified educational
14 expenses.

15 Sec. 4. APPLICABILITY. The following applies to school
16 budget years and fiscal years beginning on or after July 1,
17 2022:

18 The section of this Act enacting section 257.11B.

19 Sec. 5. APPLICABILITY. The following applies to tax years
20 beginning on or after January 1, 2022:

21 The section of this Act enacting section 422.7, subsection
22 51.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill establishes an education savings grant program
27 for certain pupils attending a nonpublic school or receiving
28 competent private instruction.

29 For the school budget year beginning July 1, 2022, and each
30 succeeding school budget year, resident pupils eligible to
31 enroll in kindergarten through grade 12 and who are either
32 attending a nonpublic school or are receiving competent private
33 instruction under Code chapter 299A, and who are not otherwise
34 ineligible under the bill, are eligible to receive an education
35 savings grant.

1 By January 31 preceding the school year for which the
2 education savings grant is requested, the parent or guardian of
3 the pupil requesting to receive an education savings grant must
4 submit an application to the department of education indicating
5 that the parent or guardian intends to enroll the pupil in a
6 nonpublic school or provide competent private instruction for
7 the school year.

8 The bill requires that by March 1 preceding the school
9 year for which the education savings grant is requested, the
10 department of education must notify the parent or guardian of
11 each pupil approved for the following school year to receive an
12 education savings grant and the amount of the education savings
13 grant for the pupil, as specified in the bill. Education
14 savings grants must be approved for each school year and
15 applications must be submitted each year.

16 The bill creates an education savings grant fund in
17 the state treasury under the control of the department of
18 education consisting of moneys appropriated to the department
19 of education for the purpose of providing education savings
20 grants and for administration of the program as specified in
21 the bill. For the fiscal year commencing July 1, 2022, and
22 each succeeding fiscal year, the bill appropriates from the
23 general fund of the state to the department of education for
24 deposit in the fund the amount necessary to pay all education
25 savings grants approved for that fiscal year, including amounts
26 used by the department to administer the program. For each
27 pupil approved for an education savings grant, the department
28 of education must establish an account for that pupil in the
29 education savings grant fund. The amount of the pupil's
30 education savings grant is deposited into the pupil's account
31 on July 1 and such amount is available for use by parents and
32 guardians for the payment of qualified educational expenses, as
33 defined in the bill, incurred by the parent or guardian for the
34 pupil during that fiscal year.

35 The bill authorizes the department of education to

1 contract with a private financial management firm to manage
2 the education savings grant fund, in collaboration with the
3 treasurer of state, including providing for the disbursement
4 of education savings grants in the form of an electronic debit
5 card or checks that are payable directly from the pupil's
6 account within the fund.

7 The parent or guardian of each pupil participating in the
8 program must agree in writing to use the funds deposited in
9 the pupil's account in the education savings grant fund for
10 only qualified educational expenses. The written agreement
11 between the parent or guardian and the department of education
12 must include provisions promising that the parent or guardian
13 will provide an education for the pupil in at least the
14 subjects of reading, language, mathematics, science, and social
15 studies during the school year; will not enroll the pupil
16 as a full-time student in a public school during the school
17 year; and will comply with the rules and requirements of the
18 education savings grant program.

19 The bill requires the department of education to establish a
20 parent review committee to assist the department in examining
21 whether certain types of educational services and goods meet
22 the definition of qualified educational expenses and to provide
23 recommendations to the department about how to implement,
24 administer, and improve the education savings grant program.

25 The bill provides that moneys remaining in a pupil's account
26 upon the conclusion of the fiscal year shall remain in the
27 pupil's account in the education savings grant fund for the
28 payment of qualified educational expenses in future fiscal
29 years during which the pupil participates in the program or for
30 higher education costs as authorized in the bill.

31 Under the bill, for each pupil with a positive balance in
32 the pupil's account in the education savings grant fund upon
33 graduation from high school or completion of an equivalent
34 level of competent private instruction, the department of
35 education is required to maintain the account in the fund until

1 the pupil reaches the age of 26. Until the pupil reaches the
2 age limitation, moneys in the pupil's account may be used by
3 the pupil for qualified education expenses, as defined in Code
4 section 12D.1. Moneys in a pupil's account when the pupil
5 reaches the age limitation are transferred by the department of
6 education for deposit in the general fund of the state.

7 The bill establishes procedures for parent or guardian
8 appeals to the state board of education and provides that a
9 person who makes a false claim for the purpose of obtaining an
10 education savings grant or who knowingly receives the grant or
11 makes a payment from an account in the education savings grant
12 fund without being legally entitled to do so is guilty of a
13 fraudulent practice and is subject to a criminal penalty. The
14 bill directs the department of education to recover grants and
15 amounts improperly awarded or paid and requires the closure
16 of the pupil's account and transfer of all remaining moneys
17 to the general fund of the state. The bill also establishes
18 requirements and procedures for parents or guardians and for
19 the department of education when a pupil receiving an education
20 savings grant withdraws or is expelled from the nonpublic
21 school or withdraws from competent private instruction prior to
22 the end of the required attendance period of the school year,
23 including requirements for disposition of the pupil's account
24 within the education savings grant fund and recovery of grant
25 funds.

26 The bill provides that an education savings grant received
27 by a taxpayer is not taxable income for purposes of state
28 individual income taxation. This provision of the bill applies
29 to tax years beginning on or after January 1, 2022.

30 The section of the bill enacting the education savings
31 grant program applies to school budget years and fiscal years
32 beginning on or after July 1, 2022.